

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

11/27/84
P.L.D.
29843

FILE: B-216994

DATE: November 27, 1984

MATTER OF: Tritan Corporation

DIGEST:

Protest based on allegations that are supported only by the protester's speculations and are denied by the procuring agency is denied because protester has not met its burden of proof with regard to the facts that are essential to its case.

Tritan Corporation protests the rejection of its proposal by the Department of the Navy under request for proposals (RFP) No. N00140-84-R-0071, a procurement for water blasters with integrated logistics support. We deny the protest.

According to Tritan, its best and final offer initially did not include a price for support of the water blaster unit's diesel engine because the Navy's contracting officer had instructed Tritan not to include a price for it. Tritan later was informed that the solicitation required support for the entire water blaster system including the engine and was told to include a price for engine support with the requested extension of its proposal acceptance period. Tritan did so but was then told by the Navy that its price increase removed Tritan from consideration for award.

Tritan argues that this was unfair because the Navy initially announced that Tritan was the low offeror, thereby revealing to its competitors that their prices were high. Tritan alleges that these competitors, all of whom had based their best and final prices on accurate instructions, would assume that Tritan's price was also based on supporting the whole system and would therefore substantially lower their prices when extending their proposals.

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Tritan provides no evidence to support its statement that its status as the initial low offeror for this negotiated contract was announced by the Navy, and the Navy has informed us that no such announcement was made.^{1/} For the Navy to have done so would have violated Defense Acquisition Regulation (DAR), § 3-507.2 (1976 ed.) which prohibits the release of such information prior to award. We have also been informed by the Navy that only Tritan changed its price when extending its proposal.

Thus, Tritan's allegations concerning the announcement of its competitive status and changes in prices offered by its competitors appear to be solely speculative. Under these circumstances, we must conclude that Tritan has not met its burden of proof. See John Crane-Houdaille, Inc., B-212829, Jan. 20, 1984, 84-1 CPD ¶ 89.

The protest is summarily denied.

for Milton J. Fowler
Comptroller General
of the United States

^{1/} Unlike advertised procurements, there is no public bid opening in negotiated procurements.